

DETAILED ACTION

Acknowledgements

1. This Office Action is given Paper No. 20110321 for reference purposes only.
2. This Office Action is in response to the Supplemental Amendment filed 21 March 2011 (“March 2011 Response”). The March 2011 Response contained, inter alia, Claim Amendments (“March 2011 Amendments”) and Remarks/Arguments (“March 2011 Remarks”). This Office Action is also in response to the Response to Restriction Requirement filed 10 February 2011 (“February 2011 Response”). The February 2011 Response contained, inter alia, and Remarks/Arguments (“February 2011 Remarks”).
3. Claims 10-17, 23, 25, 26, and 28 have been examined.

Examiner’s Amendment

4. An examiner’s amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
5. Authorization for this examiner’s amendment was given in a telephone interview with Kevin Rosin (#55584) on 21 March 2011.
6. The application has been amended one (1) time as follows:
7. Cancel claims 18-22 and 27.

Allowable Subject Matter

8. Claims 10-17, 23, 25, 26, and 28 allowed.
9. The following is an examiner's statement of reasons for allowance:
10. Regarding the claimed terms, the Examiner notes that a "general term must be understood in the context in which the inventor presents it." In re Glaug, 283 F.3d 1335, 1340, 62 USPQ2d 1151, 1154 (Fed. Cir. 2002). Therefore, the Examiner must interpret the claimed terms as they are found on pages 1-11 of the specification. Clearly, almost all of the general terms in the claims may have multiple meanings. So, where a claim term "is susceptible to various meanings...the inventor's lexicography must prevail...." Id. Using these definitions for the claims, the claimed invention was not reasonably found in the prior art.

Reasons for Allowance

11. As per claim 10, the primary reference, Colosso (U.S. Patent 6169976), in view of the secondary reference, Manduley (U.S. Patent 5956505), in view of the tertiary reference, Tajima (U.S. Patent 6402737), discloses:
 12. a subscribing station (Colosso, figure 2a, Customer **240**) including:
 13. a central server (Colosso, figure 2a, Server(s) **244**);
 14. a plurality of in-field products (Colosso, figure 2a, User Clients **246a, 246b, 246c**) networked to the central server (Colosso, figure 2a, note that the Server(s) **244** are connected to the User Clients **246a, 246b, 246c**); and
15. a computer separate (Colosso, figure 2a, Admin Client **242**) from the central server and the plurality of in-field products that is programmed to control a transfer of data to and from the

plurality of in-field products so as to function as a centralized management system there for (Colosso, column 10, lines 10-25 - “customer interface **308**...used by the customer 302...to communicate with the web application **312**...in one embodiment, the customer interface **308** is the administration client **242**”);

16. an on-line center (Colosso, figure 2a, Distributor **250**) programmed to receive (Tajima, figure 6, Input Reception [of User Authenticating Means] **602**) and authenticate a user I.D. (Tajima, figure 6, Authentication Succeeded? **604**), validate an option request (Manduley, column 8, lines 1-6 - “data center **checks to see whether** the request code included a request to activate a feature or program that ... **was already activated**”) for at least one of the plurality of in-field products, and create an option key in response thereto to the option request (Manduley, figure 4-B Generate Activation Code **224**); and

17. a communications network (Colosso, figure 2a, Internet **318**) to relay data from the on-line center to the subscribing station, the communications network including a first component in the on-line center (Colosso, figure 2a, Distributor Server **254** must inherently contain a network interface, because it interfaces with Internet **318**) and a second component in the subscribing station (Colosso, figure 2a, Server(s) **244** must inherently contain a network interface, because it interfaces with Internet **318**), and wherein the communications network is programmed to connect the on-line center to the subscribing station through an external communications network and transmit the option key from the on-line center to the subscribing station in response to receipt and authorization of a user I.D. and receipt of a valid option request (the Internet is inherently programmed to transmit information sent over it);

18. wherein the computer at the subscribing station transmits each of the user I.D. and the option request for a specified in-field product to the on-line center by way of the central server and the communications network (Colosso, figure 2f, Send Key Information to Customer **750**).

19. However, Colosso in view of Manduley, further in view of Tajima, does not teach:
20. wherein the computer at the subscribing station installs the option key on the specified in-field product.

21. Moreover, the missing elements are not found in a reasonable number of references. Yet, even if the missing elements were found in a reasonable number of references, a person having ordinary skill in the art would not have been motivated to include the missing elements in an embodiment of Colosso in view of Manduley further in view of Tajima, because Colosso's User Clients **246a**, **246b**, and **246c** do not receive any data themselves. Rather, the Server(s) **244** receive the key information (figure 2f, Send Key Information to Customer **750**) and/or software (figure 2d, Customer Receives Licensed Product **726**), and the User Clients **246a**, **246b**, and **246c** merely access the software present on the Server(s) **244**. See, e.g. column 7, lines 25-30 - "servers **244** comprise an application server that is used to store and run application programs that are useful to the users of the user clients **246a**, **246b**, and **246c**." Modifying Colosso to install the software and licensing keys on individual user clients would fundamentally change the structure and operation of Colosso.

22. Additionally, Colosso's invention is concerned with how many clients access the licensed product, and uses a "Verification mechanism" to regulate or limit client access such that the number of User Clients using the software at once, "so that the total number of concurrent users

of the licensed product does not exceed the license level that was purchased by the customer” (column 9, lines 50-58). Modifying Colosso to install the software and/or keys on individual User Clients would make tracking this number of concurrent uses impossible, and thus would break the functionality of Colosso and render it unfit for its intended purpose.

23. Therefore, a person having ordinary skill in the art at the time of the invention would not have been motivated to modify an embodiment of Colosso in view of Manduley further in view of Tajima to include installing the software/keys on individual user clients, because it would render the invention unfit for its intended purpose, as well as fundamentally change the structure and operation of the invention.

24. The Examiner finds that claim 23 is not patentably distinct from claim 10, because the inventions in claims 10 and 23 are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method in claim 23 recites steps that can only be performed by the system in claim 10, and the system in claim 10 only recites structure that makes operating the steps in claim 23.

25. Because claim 23 is not patentably distinct from claim 10, the Examiner concludes that the patentability of claim 23 stands or falls with claim 10.

26. Thus, claim 23 is allowable for at least the same reasoning.

27. Any comments considered necessary by Applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

28. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to CHRISTOPHER C. JOHNS whose telephone number is (571)270-3462. The Examiner can normally be reached from Monday through Friday from 9am to 5pm. The Examiner's direct fax line is (571) 270-4462.

29. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer, can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

30. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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